

## **REMARKS/ ARGUMENTS**

### **1. Status of the Claims**

Claim 36-49,51-55 are currently pending in the present application. Claims 1-35 have been canceled. Claim 50 has been withdrawn.

### **2. The rejection of Claims 36-43 under 35 U.S.C. 102(b) as being anticipated by Giuffre (US Patent 6,042,548) should be withdrawn.**

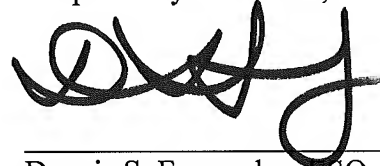
Applicant respectfully traverses the rejection. Applicant respectfully believes that Examiner has misinterpreted the Giuffre reference. The Examiner states on page 5 of the OA that Giuffre "...teaches the use of separate biosensors for the heart and brain, which reads on the implantation of a biosensor for the heart and brain...". However, Giuffre repeatedly teaches away from invasive monitoring [Col 1, lines 12-13, "such systems, when noninvasive, provide less risk to subjects..."; Col 1, lines 63-64, "This technique, known as thoracic bioimpedence, has been shown to accurately and noninvasively predict changes..."; Col 4, lines 27-28, "In the preferred embodiment, noninvasive cardiovascular monitor means..."; Col 4, Lines 21-24 "...the result is a noninvasive cardiovascular monitor which, using a trained pattern recognition system, estimates the neurophysiological state of the subject."; Col 5, Lines 12-13, "The disclosed method provides a simple, noninvasive means for determining..."]. In contrast, the instant application teaches an implantable device [0018 and Fig 1a, "...illustrates implantable network biosensor 100."; "Sensor 100 may be provided inside a host..."; Claim 44, "wherein said sensor is implanted in a subject's mouth, larynx, blood vessel, vein, nose, ear, eye, heart, brain, lymph node, lung, breast, stomach, pancreas, kidney, colon, rectum, ovary, uterus, bladder or prostate"]. Whereas our invention specifically defines an

implantable device and the Guiffre reference teaches away from such a device, the present invention is clearly distinguished from Guiffre.

Applicant further respectfully believes that Examiner has misinterpreted the Guiffre reference with regard to the activation and deactivation of the sensor in our invention. As stated by the Examiner on page 6, Guiffre "...expressly teaches the deactivation of brain associated biosensors following the training of a neural network...". As such, the brain monitor is designed to be used only once. In our invention, the sensor is reconfigurable, such that it can be activated and deactivated as conditions require. Whereas Guiffre is using a noninvasive (not implanted) device, there is no consequence in turning the monitor off and disengaging it from the subject. However, our invention teaches the implantation of the sensor into a living species, where it would be unreasonable to use it solely for training a computer program, then deactivating it and leaving it implanted. We therefore respectfully assert that the deactivation of the sensor in Guiffre does not encompass the reconfiguration (activation/deactivation) used in our invention.

In view of all the foregoing statements, applicant respectfully submits that the present application is in condition for allowance, and such allowance is earnestly solicited.

Respectfully submitted,



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